

### **REMARKS**

Reconsideration and withdrawal of the rejections of this application and consideration and entry of this paper are respectfully requested in view of the herein remarks and accompanying information, which place the application in condition for allowance.

Claims 33 to 54 were under consideration in this application. Claims 38, 39, 42-44, 47, 48 and 52-54 have been canceled. Claims 33 and 42 have been amended. No new matter has been added by this amendment.

Support is found throughout the specification as originally filed. Claim 33 has been amended to recite an Ad5 fiber gene encoding the Ad5 fiber with the RGD peptide within the HI loop of the knob comprises an annealed duplex of (SEQ ID No. 10) and (SEQ ID No. 11) as well as to incorporate the subject matter of canceled claims 38, 39, 43, 44, 47, 48, 53 and 54. Support for the recitation of an recombinant Ad5 fiber gene may be found, for example, in paragraph 98 of the specification as published. Claim 43 has been amended to properly depend from claim 33. Claim 45 has been amended to correct a typographical error and to clarify the dependency to claim 33.

No new matter has been added.

The Examiner is thanked for withdrawing prior rejections.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. The amendments of the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

#### **1. The Claim Objection is Overcome**

Claim 45 was objected to because of a misspelling. In response, claim 45 has been clarified to recite “transduce”.

Reconsideration and withdrawal of the claim objection is respectfully requested.

#### **2. The Claim Rejections under 35 U.S.C. § 112, Second Paragraph, are Overcome**

Claims 33-54 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

Claims 38, 39, 42-44, 47, 48 and 52-54 have been canceled, thereby obviating the rejection in part.

Claim 33 has been clarified to delete the recitations of “adding a new binding specificity”, “novel tropism” and “an adenovirus” thereby obviating the rejections. The rejections to dependent claims 34, 35, 40, 45 and 51 are obviated by the amendment to claim 33.

Claim 45 has been amended to recite “generating the adenovirus of claim 33” thereby obviating the rejection.

Reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, second paragraph, are respectfully requested.

**3. The Rejections Under 35 U.S.C. §102 are Overcome**

Claims 33-44 are rejected under 35 U.S.C. §§ 102(b) as being anticipated by Wickham et al. (U.S. Patent No. 5,846,782, hereinafter “Wickham”). Claims 45-54 are rejected under 35 U.S.C. § 102(e) as being anticipated by Wickham.

It is respectfully pointed out that a two-prong inquiry must be satisfied in order for a Section 102 rejection to stand. First, the prior art reference must contain all of the elements of the claimed invention. *See Lewmar Marine Inc. v. Barient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987). Second, the prior art must contain an enabling disclosure. *See Chester v. Miller*, 15 U.S.P.Q.2d 1333, 1336 (Fed. Cir. 1990). A reference contains an enabling disclosure if a person of ordinary skill in the art could have combined the description of the invention in the prior art reference with his own knowledge of the art to have placed himself in possession of the invention. *See In re Donohue*, 226, U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Claims 38, 39, 42-44, 47, 48 and 52-54 have been canceled, thereby obviating the rejection in part.

Claim 33 has been clarified to recite an Ad5 fiber gene encoding the Ad5 fiber with the RGD peptide within the HI loop of the knob comprises an annealed duplex of (SEQ ID No. 10) and (SEQ ID No. 11). Wickham does not teach or suggest a recombinant Ad5 fiber gene encoding the Ad5 fiber with the RGD peptide within the HI loop of the knob comprises an annealed duplex of (SEQ ID No. 10) and (SEQ ID No. 11).

Reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are respectfully requested.

**REQUEST FOR INTERVIEW**

If any issue remains as an impediment to allowance, a further interview with the Examiner and SPE are respectfully requested and the Examiner is additionally requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

CONCLUSION

In view of the remarks and amendments herein, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution.

Respectfully submitted,  
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